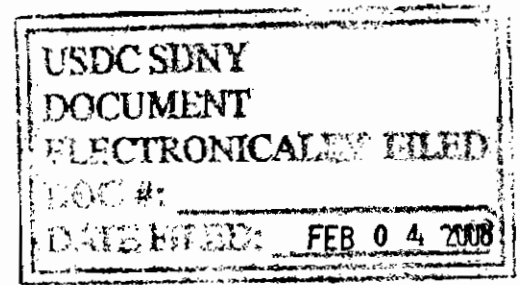


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
Brownstone Agency, Inc.,

Plaintiffs,

-v-

No. 08 Civ. 522 (LTS)(FM)

Eugene J. Callaghan, et al.,

Defendants.
-----X

ORDER

WHEREAS, this action was commenced by the filing of a Notice of Removal on January 21, 2008, and the action was subsequently transferred to the undersigned; and

WHEREAS, the Court has reviewed such Notice of Removal to ascertain the basis for assertion of subject matter jurisdiction in this court; and

WHEREAS, such Notice of Removal asserts that the Court has jurisdiction based on diversity of citizenship (28 U.S.C. § 1332), but the Notice fails to allege the citizenship of the individuals and of the members of Plaintiff Murphy and Jordan. Where a party is a limited liability company (LLC), the LLC's citizenship is the same as that of each member, Strother v. Harte, 171 F. Supp. 2d 203, 205 (S.D.N.Y. 2001); and

WHEREAS, "subject matter jurisdiction is an unwaivable *sine qua non* for the exercise of federal judicial power," E.R. Squibb & Sons v. Accident & Cas. Ins. Co., 160 F.3d 925, 929 (2d Cir. 1998) (citation omitted), and Rule 12(h)(3) of the Federal Rules of Civil Procedure provides that "[w]henver it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action;" it is hereby

ORDERED, that Defendants shall, no later than **February 15, 2008**, file and serve a Supplement to the Notice of Removal containing allegations sufficient to demonstrate a basis for subject matter jurisdiction in this Court or otherwise show cause in writing as to why this case should not be dismissed for lack of subject matter jurisdiction. Defendants shall promptly serve a copy of this Order on Plaintiff's counsel, and shall file a certificate of such service within 5 days from the date hereof.

Dated: New York, New York
February 1, 2008

A handwritten signature in black ink, appearing to read 'Laura Taylor Swain', written over a horizontal line.

LAURA TAYLOR SWAIN
United States District Judge